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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEE-RAY TARANTINO CO., INC., d/b/a
 GOLDEN STATE PRODUCE CO.

Plaintiff

v.

THEODORAS KOLIATISIS, d/b/a/
 4TH & GEARY FARMERS MARKET

Defendant

Civil Action No: _____

**EX PARTE APPLICATION FOR
 TEMPORARY RESTRAINING
 ORDER WITHOUT NOTICE
 AND FOR ORDER TO SHOW
 CAUSE RE PRELIMINARY
 INJUNCTION**

I. APPLICATION

Upon the verified affidavit of Michael Lai, the Controller of Lee-Ray Tarantino Co., Inc., d/b/a Golden State Produce Co. ("Golden State Produce") and the accompanying memorandum of points and authorities in support, plaintiff hereby moves the Court to issue a temporary restraining order under Rule 65 of the Federal Rules of Civil Procedure enforcing the statutory trust pursuant to Section 5(c) of the Perishable Agricultural Commodities Act ("PACA"), 7 U.S.C. §499e(c), by-restraining the transfer of any and all

1 PACA trust assets of defendant Theodoras Koliatsis, d/b/a 4th & Geary Farmers Market
2 until there is full payment to Golden State Produce of \$328,344.36, pending the entry of a
3 Preliminary Injunction Order.
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5 II. GROUNDS

6 This application is made pursuant to Rule 65 of the Federal Rules of Civil
7 Procedure. As set forth more fully in the accompanying Memorandum of Points and
8 Authorities, defendants are in violation of their obligations as trustees under the statutory
9 trust provisions of the PACA for failing and continuing to fail to preserve PACA trust assets
10 and to pay plaintiff for the produce supplied.
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12 III. DOCUMENTS

13 This motion is based on this Application, the accompanying Memorandum of Points
14 and Authorities, the verified affidavit of Michael Lai, the Controller of Golden State
15 Produce, Certification of Counsel Why Notice Should not be Provided, the Proposed
16 Order, the documents on file in this action, and such other evidence as may be presented
17 to the Court at the hearing on this matter.
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IV. EX PARTE NOTICE

Plaintiff submits this application without notice and requests that the court issue the order with a finding that the interests of justice require that the ex parte application be heard without notice.

November 9, 2007

DUDNICK, DETWILER, RIVIN & STIKKER, LLP

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